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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

November 7, 1993

Commissioner Irwin Dugan
The Federal Communications Commission
Washington D.C. 20554

Dear Commissioner Dugan;

I am a Professional Engineer who has worked in the cable television industry for over 25 years. I am writing to express my concern regarding the merger of Bell Atlantic and TCI.

Just as you are interested in bringing the benefits of competition to the consumer I am in favor of the market benefit of competition between the nation's cable television companies and telephone companies. However in the recent senatorial hearings on the merger the true anti-competitive structure of the merger is not being exposed.

In analyzing the cable business you must separately consider the product and the distribution system.

The product is the television programming. It is true that TCI can not completely control all of the programming being produced and therefore Bell Atlantic's arrival on the scene would not in itself be anti-competitive. If Bell Atlantic is held to common carrier requirements, then any programmer would have access to the consumer.

The second and more important part of the cable television business is the physical distribution wires. Here is where Bell Atlantic has achieved a coup.

There are presently two wires running into virtually every American home. (1) The narrow band, low capacity, copper pair telephone wire and (2) the broad band, high capacity coaxial cable television cable. If the cable and telephone companies were to compete head on in the converging digital media world, without stifling regulation, the telephone company would lose. Because, contrary to the telephone company's misleading PR, the telephone twisted pair wire will not deliver video to the home. To survive the telephone company must either rebuild its network with coaxial cable or buy the local cable television company.

Bell Atlantic has developed a product it refers to as Video Dial Tone which it is testing in Florham Park, NJ. In that test Bell Atlantic bought the in-place coaxial cable service wires from the incumbent cable company because the telephone wires could not be used and it was too expensive to install new coaxial wires. In the test Bell Atlantic is selling back to the cable company delivery service on the coaxial cables. What this means is that

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where there were two competing wires going into the home before Video Dial Tone, now there is only one wire and Bell Atlantic has control of it.

Bell Atlantic now has supplanted the competition on the coaxial system and the cable company can not provide competing telephone service. At least not without paying the Bell Atlantic tariff for using their coaxial wire.

How will Bell Atlantic use the TCI merger and Video Dial Tone to stifle competition?. There are two parts to the answers. In TCI cable systems outside the Bell Atlantic telephone service area Bell Atlantic will lease space on the coaxial system to the local Regional Bell Operating Company and allow the local RBOC to develop future services unchallenged by the local cable company. Bell Atlantic will receive the transportation tariff payments from the RBOC.

In its own service area Bell Atlantic has stated they will divest the TCI cable companies. But, Bell Atlantic has no plans to give up the coaxial cables. In practice Bell Atlantic will sell the shell of the cable company and give it access to the Bell Atlantic coaxial cables. Bell Atlantic will receive the transportation tariff payment from the cable company. The cable company will not be able to provide competing phone service. There will be only the one Bell Atlantic wire going into the home.

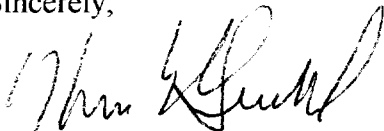
In conclusion, if you hope to achieve any competition in the telephone/cable market you must insure that two wires run into each home. You must rule that Bell Atlantic must entirely and completely divest itself of the competing TCI cable companies and the coaxial cable systems in their own telephone service area. You must also rule that no local phone company can use or control the cable television system wires in their own telephone service area.

Bell Atlantic espouses free competition among programmers for carriage on their network while they are working to remove the competing cable network.

Enclosed is a copy of an article from MULTICHANNEL NEWS in which Bell Atlantic's plans are described.

I am available to appear in Washington DC if you desire.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Gimbel', written in a cursive style.

Thomas L. Gimbel P.E.

Merger, Who's Speaking Up for Cable Industry

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how the various long-running in-
ternal factions develop.

"I don't think we understand
yet," Miron said. "We have to see
how it all plays out, and time will
develop the answer."

"I'll tell you the guys with the
hardest job right now," said another
cable CEO. "That's the NCTA
search committee," of which
Miron is a member. The CEO
quipped — referring to the re-
placement for former NCTA pres-
ident James Mooney — that since
the U.S. Telephone Association is
seeking a new president as well,
the two associations should hire
the same person and save the
headhunter's fee.

Observed Mooney: "I suspect
the most important factor will be
whether the regulatory system
will continue to treat cable and
telephone as two separate and dis-
tinct businesses. As to the degree
it does, you will not be able to
avoid two separate trade associa-
tions."

Unfortunately, leadership is one
of those great fuzzy issues that in-
dustry executives have difficulty
articulating with much precision.
Does leadership come solely from
size and power? From a high pub-
lic profile? From technological or
financial savvy?

Then there's the question of
what's being led. "The problem is
that people have perceived some-
thing as a monolith that has never
been a monolith," said Stephen
Effros, president of the Commu-
nity Antenna Television Associa-
tion. In recognition of the trans-
forming industry, CATA's board
will vote next month whether to
change its name to the Cable
Telecommunications Association.

Executives disagree whether the
Bell Atlantic/TCI deal really cre-
ates a void. In announcing the
deal, Malone carefully cast himself
as deferring to Smith, calling the
telco chairman the best CEO to
run the combined companies. Mal-
one further quipped that he was a
"billionaire lackey" and that he
was packing up and going fishing.

'Spinoff' Will Keep Close Bell Ties

By JOHN M. HIGGINS

The company that would initially own Tele-Communications Inc.'s cable systems inside Bell Atlantic Corp.'s service area will have both close financial and operating ties to the telephone company.

A Securities and Exchange Commission filing shows that this new "independent" company will also operate closely with Bell Atlantic's video dial tone systems and share plant with the telco.

Bell Atlantic's plans for those systems will be a key element of communications and antitrust officials' scrutiny of the telco's agreement to acquire TCI. About 1.6 million of the 11 million subscribers served by TCI or its affiliates are in Bell Atlantic's seven-state telephone service area. If Bell Atlantic controlled both sets of wires, critics contend, it would eliminate competition in both telephone and video services.

Bell Atlantic said that it ultimately plans to "truly dispose" of any overlapping cable systems. "Our commitment was and is to the Department of Justice that we will not buy franchised systems in our region," said Ken Pitt, Bell Atlantic's executive director of corporate relations. But how fast the disposal happens is "a coin toss. Our hope is that happens quickly."

The initial program calls for Bell Atlantic to spin the conflicted systems into a new company referred to as "New TCI," which is currently structured to exist for up to eight years.

The SEC filing shows that New TCI won't be too distant from the telco. Since old TCI shareholders will hold New TCI, TCI president and CEO John Malone and chairman Bob Magness, who would also have a combined \$1 billion-plus stake in Bell Atlantic, will control the new firm.

Further, Bell Atlantic is lending New TCI \$1 billion and receiving warrants to acquire 19.9 percent of its stock. Bell Atlantic will also have a five-year option to buy all or part of New TCI's assets, renewable for another three years.

Operations will be close as well. Some of those properties are scheduled to ride on Bell Atlantic's plant plus give the telco passage on the cable systems' drops into subscribers' homes.

Bell Atlantic plans to build video dial tone systems as a common carrier open to others who want to retail packages of networks to consumers. The SEC filing said that New TCI "would subscribe, within its service areas, to approximately one-half of such channels" on the VDT system.

New TCI would also "grant Bell Atlantic a non-exclusive right to occupy [its] drop wire and premises wire and equipment." The precise markets Bell Atlantic would enter first will be set in the definitive merger agreement between Bell Atlantic and TCI. ■

munications president
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TCI senior vice pre-
communications and p-
ning Robert Thomson
think that John would
idea that he was speak
industry," he said.

Tell that to the fina-
community. Malone is unqi-
the industry leader in tl
investors in lenders. T
of great benefit to othe
who have piggybacked
recent progress in secu-
in the bond market a
success in persuading
to ignore cable's huge
losses and focus inste
flow.

Capitol Hill is much
where TCI is promine
hardly the sole spokes
executives said the Be
deal will not have an
effect on the cable ind-
islative and regulatory

"We are very much
continuing to advance
position of pre-emptin
local barriers to cable
the telephone busine
staged entry of the
companies into the vid
on Capitol Hill and to
istration," said the
Anstrom.

Anstrom also point
the NCTA is appealing
strict court ruling per
Atlantic to provide cal
inside its seven-state
territory — a decisio
made several days af
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"I think that to sort
five years from now a
we think of as cable c
going to have Bell lo
corporate letterhead
case," Anstrom said.

"This is an indu-
clearly going to seek
a number of places.
suspect that five yea
we will look around
of the major player
major players." ■

Although one CEO said that
Malone "has single-handedly de-
fined the cable industry for
years," some cable executives said
that Malone spoke primarily for
TCI. "I never looked toward TCI
in how I was going to run my
business," said Sammons Com-

Small Ones Panel

Cablevision Holding New Telco